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In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 1218

THE STATE OF TEXAS, APPELLANT

v.

UNITED STATES OF AMERICA

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, AUSTIN DIVISION

MOTION TO AFFIRM

Pursuant to Rule 16, paragraph 1(c) of the Rules of this Court, the appellee, United States, moves that the judgment of the three-judge district court be affirmed.

On August 10, 1965, the United States, acting pursuant to Section 10(b) of the Voting Rights Act of 1965 and 42 U.S.C. 1971(c), instituted an action seeking a judgment declaring the invalidity and enjoining the enforcement of those provisions of the constitution and laws of the State of Texas which condition the right to vote in State and local elections on prior payment of a poll tax. A three-judge district court was convened, and, on February 9,

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1966, the court granted the injunction prayed for, determining that the Texas poll tax requirement for voting violated the Fourteenth Amendment.

Following that decision the Governor of Texas called a special session of the Texas Legislature to provide for the supplemental registration of voters for the 1966 elections and a permanent system of voter registration. Section 6 of the bill enacted by the special session on February 23, 1966, and approved by the Governor the next day (Senate Bill No. 1, Acts 59th Legislature, 1st Called Session, 1966; J.S. 9–10), conditioned the effective date of the permanent registration system on either of two contingencies: adoption of a proposed amendment to the Texas Constitution abolishing the poll tax as a condition for voting in State and local elections, or an adverse ruling on appeal to this Court of the decision in this case. On March 1, 1966, the State of Texas filed its notice of appeal to this Court. Appellant's Jurisdictional Statement discloses the dilemma confronting it in providing for a permanent system of registration should the happening of those contingencies be delayed and concedes that the issue presented on this appeal "was settled by the decision of this Court on March 24, 1966, in *Harper* v. *Virginia State Board of Elections* and *Butts* v. *Harrison*, Nos. 48 and 655, October Term, 1965" (J.S. 7).

In view of those controlling decisions and appellant's concession, and recognizing the need for expeditious consideration of this appeal, appellee moves

that the decision of the three-judge district court be summarily affirmed.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

APRIL 1966.

END